



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-2012-0063; FRL-10009-34-Region 4]

National Oil and Hazardous Substances Pollution Contingency Plan;

National Priorities List: Deletion of the Fairfax St. Wood Treaters Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule; Notice of Intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 is issuing a Notice of Intent to Delete Fairfax St. Wood Treaters Superfund Site (Site) located in Jacksonville, Florida, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Florida, through the Florida Department of Environmental Protection (FDEP), have determined that all appropriate response actions under CERCLA, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by **[insert date 30 days after date of publication in the *Federal Register*].**

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-2012-0063, by one of the following methods:

- <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Once submitted, comments cannot be edited or removed from Regulations.gov.

The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business

Information (CBI) or other information whose disclosure is restricted by statute.

Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include a discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

- Following Centers for Disease Control and Prevention (CDC) and Office of Policy Management (OPM) guidance and specific state guidelines impacting our regional offices, EPA's workforce has been authorized to telework to help prevent transmission of the coronavirus [COVID-19]. As a result there is a temporary shutdown of EPA's Docket Center and EPA Regional Records Centers. While in this workforce telework status, there are practical limitations on the ability of staff

to collect, and for Agency personnel to respond to, "hard copy" mailed queries sent directly to Agency office locations. Therefore, until the workforce is able to return to office locations, EPA recommends that, to the extent feasible, any correspondence mailed to the Agency should also be sent via email.

- For questions on this document and submission of comments please contact - Leigh Lattimore, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW - MS9T25, Atlanta GA, 30303, (404) 562-8768, lattimore.leigh@epa.gov or Ron Tolliver at tolliver.ron@epa.gov.

Instructions: Direct your comments to Docket ID No. EPA-HQ-SFUND-2012-0063.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov> or e-mail. The <https://www.regulations.gov> website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through <https://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties

and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <https://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hardcopy. Publicly available docket materials are available electronically in <https://www.regulations.gov>.

The EPA is temporarily suspending its Docket Center and Regional Records Centers for public visitors to reduce the risk of transmitting COVID-19. In addition, many site information repositories are closed and information in these repositories, including the deletion docket, has not been updated with hardcopy or electronic media. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID.

FOR FURTHER INFORMATION CONTACT: Leigh Lattimore, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW - MS9T25, Atlanta GA, 30303, (404)562-8768, email: lattimore.leigh@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region 4 announces its intent to delete the Fairfax St. Wood Treaters Superfund Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. The EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

The EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III of this document discusses procedures that the EPA is using for this action. Section IV of this document discusses where to access and review the information that demonstrates how the deletion criteria have been met at the Fairfax St. Wood Treaters Superfund Site and demonstrates how it meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), the EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, the EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. The EPA conducts such five-year reviews even if a site is deleted from the NPL. The EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the State before developing this Notice of Intent to Delete.

(2) The EPA has provided the state 30 working days for review of this document prior to publication of it today

(3) In accordance with the criteria discussed above, the EPA has determined that no further response is appropriate;

(4) The State of Florida, through the Florida Department of Environmental Protection, has concurred with deletion of the Site from the NPL.

(5) Concurrently with the publication of this Notice of Intent to Delete in the Federal Register, a notice is being published in a major local newspaper, The Florida Times-Union. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the site from the NPL.

(6) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

If comments are received within the 30-day public comment period on this document, the EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, the EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if the EPA determines it is still appropriate to delete the Site, the Regional Administrator will publish a final Notice of Deletion in the **Federal Register**.

Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and in the site information repositories listed above.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Background and History

The Fairfax St. Wood Treaters (FSWT) (CERCLIS ID: FLD000623041) Superfund site encompasses 12.5 acres and is located at 2610 Fairfax Street, in a predominantly residential area of Jacksonville, Duval County, Florida. Features of the FSWT facility included a burned building, parking lot, drip pad, former tank farm, and retention pond. FSWT is bordered to the north by St. Johns/CSX railroad tracks, to the east by Fairfax Street and residential properties beyond, to the south by West 14th Street and residential properties beyond, and to the west by Susie E. Tolbert and R.V. Daniels Elementary Schools (STES) and by residential properties on Pullman Court. Moncrief Creek is located about 1,000 feet west of the FSWT property. Overflow from the FSWT retention pond flows into Moncrief Creek via a city drainage pipe, which collects stormwater from the general area.

From 1980 to 2010, Wood Treaters, LLC operated a wood treating facility that pressure-treated utility poles, pilings, heavy timber items, and plywood lumber products using the wood treating preservative chromated copper arsenate (CCA). CCA is characterized by a bright green color and is composed of waterborne oxides, or salts, of chromium, copper, and arsenic.

As a result of the wood treating operations and EPA's understanding of the process at the facility, some of the contaminated soil is contaminated with Resource Conservation and Recovery Act (RCRA) Listed Hazardous Waste (F035). Under 40 CFR 261.31, F035 Listed hazardous waste is defined as "Wastewater (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium." Under EPA's "contained-in" policy, contaminated media (e.g., groundwater, soil, or sediments) is considered to contain RCRA hazardous waste: (1) when media is contaminated with characteristic hazardous waste and exhibits a characteristic of hazardous waste; or (2) when the media is contaminated with hazardous constituents from RCRA Listed Hazardous Waste. (63 FR 28617, May 26, 1998). For F035, the RCRA hazardous constituents are arsenic and chromium. If contaminated media (e.g. soil) contain Listed Hazardous Waste, then once generated (i.e., excavated from the ground) they are with limited exceptions, subject to all applicable RCRA hazardous waste requirements until EPA (or an authorized State) determine the media no longer contains hazardous waste. These RCRA requirements were identified in the ROD as "applicable or relevant and appropriate requirements" (ARARs) consistent with CERCLA

Section 121(d)(2) and the National Contingency Plan (NCP) as well as EPA guidance. In addition, due to the elevated concentrations of arsenic and chromium in soil and residual waste in the former process area, there is a possibility that this soil/waste could be determined by the Toxicity Characteristic Leaching Procedure (TCLP) to be RCRA Toxicity characteristic waste under 40 CFR 261.24 [D004 and D007]. Residual waste material in pipes and drains are classified as a RCRA Listed hazardous waste [F035]. Building and other man-made debris that is contaminated with this Listed hazardous waste may be hazardous debris under RCRA regulations.

Between 1980 and 1990, there was no stormwater management system on the facility. The topography of the FSWT property and the surrounding area is generally flat; therefore, stormwater was either directed to the STES retention pond or flowed overland across the FSWT property. Uncontrolled stormwater contaminated with CCA from the wood treating process is believed to have overflowed onto neighboring properties during this time, resulting in CCA contaminated soil. In 1990, FSWT installed a stormwater collection and retention system, including site grading and paving for drainage, stormwater collection swales, diversion berms, and a polyethylene-lined retention pond.

After 1990, stormwater that collected in the treated wood storage yard and areas other than the drip pad was diverted to ditches located along the northern, southern, and western property boundaries. These ditches drained into the retention pond at the northwestern corner of the property. An overflow pipe is located in the retention pond so that water overflows into the pipe and discharges into nearby Moncrief Creek, a tributary of the Trout River.

Wood Treaters, LLC filed for bankruptcy in July 2010. In August 2010, after Wood Treaters, LLC, abandoned the facility, the EPA, at the request of the FDEP, conducted emergency response (ER) activities at the facility that included pumping out the water contained in the secondary containment area and retention pond, removing product in tanks, and collecting soil, surface water, sediment, and residual waste material samples. Upon arrival, the EPA plugged the overflow pipe in the on-site retention pond to prevent contaminated water in the pond from flowing into Moncrief Creek. Once the on-site retention pond was stabilized, the plug was removed.

In January 2011, the EPA conducted a removal investigation at the FSWT property. During the removal investigation, soil samples were collected from 17 residential properties, the STES and RVDES properties, and the FSWT property. Arsenic, chromium, and copper were detected in surface and subsurface soil samples collected from the FSWT property.

In July 2011, the EPA conducted a removal confirmation and residential sampling event at the FSWT property. Removal activities included excavation of gravel and soil down to 1.5 feet below land surface (bls) along the northern, western, and southern portions of the property. Between March and October 2011, the EPA conducted removal activities at the FSWT property and the adjacent STES and RVDES shared playground.

In May 2011, the EPA conducted a site assessment investigation at the FSWT property. During the investigation, soil samples were collected along the northern and western portions of the FSWT property, along the southern FSWT property boundary, beneath the concrete that covered the majority of the FSWT property, and from nearby residential properties. Groundwater samples were also collected from monitoring wells

installed by Wood Treaters, LLC throughout the property and around the STES retention pond.

The site was proposed to be on the National Priorities List (NPL) on March 15, 2012 (77 FR 15344), and was finalized on September 18, 2012 (77 FR 57495).

Remedial Investigation and Feasibility Study (RI/FS)

Between 2012 and 2013, the EPA conducted a remedial investigation (RI) and risk assessment to fully characterize site contaminants, fate and transport, and receptors for all exposure routes on and off-site. Based on the Human Health Risk Assessment (HHRA) and the Screening-Level Ecological Risk Assessment (SLERA), unacceptable risks were estimated for non-residential and residential exposures to arsenic, copper, chromium, and polycyclic aromatic hydrocarbons (PAHs) on site. For off-site residential soils, the EPA believed that soils immediately adjacent to the FSWT property and nearby residential yards were contaminated by former wood treating operations conducted at the site.

The HHRA determined that several residential yards exceed EPA's acceptable risk range. It was determined that the site-related contamination migrated due to stormwater runoff and spray from the tires of the trucks leaving the site from the south, east, and west.

The EPA and FDEP decided to address all residential parcels that were impacted by site-related contamination and where arsenic concentrations are above the background concentration of 2.36 ppm.

The SLERA also identified a risk for an avian receptor that may use the on-site retention pond as a primary food source and the sediments warrant a response action. Within Moncrief Creek, the major area of sediment contamination is located about 1,800 feet downstream of the discharge point of stormwater from the FSWT site to the

creek. However, further investigation of stream sediments in Moncrief Creek located off-site was needed to determine if a response action is warranted to protect the environment. It was determined that if a response action was warranted, a focused feasibility study will be completed and the additional contaminated areas will be remediated as a second operable unit under the FSWT site.

The Feasibility Study evaluated excavation and off-site disposal and with different treatment options for soils considered RCRA hazardous. The future anticipated land use is residential. Cleanup concentrations were developed to be protective of human health and are based on future anticipated land use.

Selected Remedy

EPA chose excavation and off-site treatment and disposal as the best option for the remedial action at the site. The Record of Decision (ROD) was signed on August 22, 2017. The major components of the remedy included excavation of the 12.5 area parcel, sediment in the on-site retention pond, and off-site properties. In addition to excavation, the remedy included temporary storage of generated waste, off-site disposal at EPA approved landfills, backfilling and restoration activities. The Remedial Action Objectives were: (1) Prevent human exposure (direct contact and ingestion) to on-site soil with concentrations of COCs above levels protective of residential use; (2) Prevent migration of contaminated stormwater runoff from the FSWT site to adjacent properties and Moncrief Creek; (3) Prevent unacceptable risk to ecological receptors (benthic organisms and avian) from contaminated sediments and surface water in the on-site retention pond; (4) Prevent direct contact with residual waste

material and contaminated building structures located on the site, including the drip pad and process containment areas; and (5) Prevent off-site residential human exposure (direct contact and ingestion) to soil with concentrations of arsenic above levels protective of residential use.

Response Actions

In accordance with the ROD, a pre-design field investigation was performed to fill data gaps at the school property and at residential properties east of the FSWT Site for arsenic concentrations and to provide additional site-specific information needed to develop the RD.

Three residential properties were sampled consistent with the RI sampling. Two of the properties exceeded the arsenic cleanup level.

STES delineation soil samples were collected on March 20, 2018 and June 12 through June 14, 2018. Arsenic concentrations exceeded the cleanup level. The EPA and FDEP recognized the potential concern of the parents and community and worked together to address the impacted soil as soon as possible. Since the EPA did not have RA funding, FDEP mobilized, removed, and disposed of offsite the impacted soil during the summer break when students were not present. This facilitated a component of the selected remedy.

Starting on July 9, 2018, the FDEP, started collecting additional soil samples for delineation of the area needing removal on the STES. Excavation activities occurred from July 16, 2018 through August 12, 2018, and were completed in 25 days. Approximately 3,360 tons of soil was removed from the school property during the excavation activities. The excavated area was backfilled and restored.

The Remedial Action began in February 2019 and construction activities were completed in October 2019. The 51 residential properties, the 12.5-acre property, and the on-site retention pond were remediated and restored. The EPA contractor excavated, stockpiled, and disposed of roughly 67,000 tons of excavated soils and sediments at EPA approved RCRA facilities. The EPA also collected confirmation samples from the floors and sidewalls of excavation areas and continued excavating soil if confirmation samples exceeded cleanup levels.

In July 2019, the EPA collected sediment samples, fish, insects, and crayfish along Moncrief Creek to address uncertainties raised in the SERLA. The analyses of the data concluded that site-related contaminants (arsenic, copper, chromium) are not likely to be appreciable contributors to the toxicity levels observed in the sediment toxicity tests from sediment samples from the retention basin and that site-related metals contamination in the Moncrief Creek retention basin is not likely to cause appreciable or unacceptable risks to ecological receptors that may feed at the Moncrief Creek retention basin. Therefore, it was determined the EPA would not take a response action on Moncrief Creek.

The completion of Remedial Action was documented in the Final Remedial Action Report and documented in a Superfund Remedial Action Completion memorandum signed on March 11, 2020 (Superfund Enterprise Management System (SEMS) document identification number 11143607). The reports and the memorandum are available in the deletion docket and they describe the cleanup techniques, cleanup concentrations for COCs, confirmation testing results, and QA/QC methodologies.

Cleanup Levels

Except for arsenic, the cleanup levels for the on-site and off-site contaminated surface soils are based on FDEP's SCTLs for direct exposure and residential use (Florida Administrative Code [F.A.C.] 62 -777 Table II). These SCTLs are identified as chemical-specific ARARs. Neither EPA (as a policy matter) nor Florida set cleanup levels for an individual contaminant that is more stringent than the site-specific background concentration for that contaminant, provided that the background level is protective of human health and the environment. Therefore, the EPA used the site-specific background level of 2.36 ppm for arsenic instead of the FDEP SCTL. The cleanup levels for sediments are based on Florida's sediment quality assessment guidelines for the protection of sediment-dwelling organisms. The cleanup levels can be found in the Record of Decision (SEMS 11054367)

Operation and Maintenance

Since the RA cleanup levels achieved unlimited use and unrestricted exposure (UU/UE), there is no need for Operation and Maintenance (O&M). However, the owner of the property should employ good housing keeping practices to ensure proper drainage of stormwater from the site and should include routine inspection of all site areas for evidence of positive drainage towards the site ditches and retention pond, routine mowing of site grass, routine removal of debris and vegetation other than grass from the ditches and retention pond, and routine inspection and removal of any debris, vegetation or other obstruction from the pond inlet structures and pipes.

Five-Year Review

Hazardous substances, pollutants, or contaminants will not remain at the Site above levels that allow for UU/UE after completion of all remedial action construction. Therefore, a statutory five-year review under CERCLA Section 121(c) will not be required for this remedial action.

Community Involvement

The EPA held numerous community meetings before and during the residential cleanup. The EPA issued fact sheets and maintained a public website during remedial construction. After the cleanup was complete, the EPA released final fact sheets and held a final availability session to highlight the accomplishment and answer any questions and concerns.

All EPA documents are on the site's public website. A notice is being published in a major local newspaper, the Florida Times-Union and postcards have been sent out notifying the public of the deletion.

Determination that the Site Meets the Criteria for Deletion in the NCP

The EPA has followed all procedures required by 40 CFR 300.425(e), Deletion from the NPL. The EPA consulted with the State of Florida prior to developing this document. The EPA determined that both the EPA and FDEP have conducted all appropriate response actions required and that no further response action for this portion of the Site is appropriate. The EPA is publishing a notice in a major local newspaper, The Florida Times-Union, of its intent to partially delete the Site and how to submit

comments.

The EPA placed copies of documents supporting the proposed partial deletion in the Site information repository; these documents are available for public inspection and copying.

The implemented remedy achieved the degree of cleanup and protection specified in the ROD. The selected remedial action objectives and associated cleanup levels for the surface soil are consistent with agency policy and guidance. Based on information currently available to the EPA, no further Superfund response in the area proposed for deletion is needed to protect human health and the environment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: June 4, 2020.

Mary S. Walker,
Regional Administrator
Region 4

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